IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4845 of 2007()

CRMP.1304/2007 of DISTRICT COURT, PATHANAMTHITTA

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CRIME NO.594/2007 OF ADOOR POLICE STATION

PETITIONER/ 3RD ACCUSED:

JINU, AGED 29 YEARS, S/O.RAVEENDRAN NAIR, "KARTHIKA", KANNAMKODE, ADOOR.

BY ADV. SRI.K.MADHUSOODHANAN NAIR

RESPONDENTS: STATE:

STATE OF KERALA, REPRESENTED BY THE CIRCLE INSPECTOR OF POLICE, ADOOR, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 4845 of 2007

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Dated this the 14th day of August, 2007

ORDER

Application for anticipatory bail. Petitioner is the 3rd accused. Altogether there are 12 accused persons. They face allegations, inter alia, under Sec.326 and 307 read with 149 IPC. The petitioner is named in the FIR. The conflict between the RSS and DYFI workers led to the alleged incident. The accused persons were allegedly armed with dangerous weapons . The petitioner is named as accused and specific overt acts is alleged against the petitioner also in the FIR. Victim has suffered multiple fractures. Investigation is in progress. The 2nd accused, a lawyer has been granted anticipatory bail by the learned Sessions Judge, it is submitted. That accused was allegedly present in court at the relevant time and on the basis of that assertion he was granted anticipatory bail, submits the learned counsel for the petitioner

2. The learned counsel for the petitioner submits that the petitioner was available at the Police Station in connection with some other discussions with the Police. Adopting the same yardstick as was adopted for the 2nd accused, the petitioner is also entitled to be enlarged on bail, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The

learned Public Prosecutor submits that there in nothing at the moment to discard the allegations against the petitioner/3rd accused. Mere fact that 2nd accused was granted anticipatory bail, is for no reason for the petitioner also to claim identical order. The allegations are serious. Prima facie, satisfactory materials are there pointing to the complicity of the petitioner. There is absolutely no circumstance justifying invocation of the extraordinary equitable discretion under Section 438, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. There are no features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate or the Investigating Officer and seek regular bail in the ordinary and normal course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE